

# Michael E. Farthing

Attorney at Law



July 27, 2020

Mailed: Certified Mail Return Receipt



Mayor Henry and City Council  
c/o Wendy Farley-Campbell, Planning Director  
City of Florence  
250 Highway 101  
Florence, OR 97439

Re: Petition to Annex Property and Zone Application (LDR/PW)  
18-12-10-34, Tax Lot 801  
18-12-10-40, Tax Lots 400 and 401  
Owner/Petitioner: Benedick Holdings, LLC

Mayor Henry and Councilors:

This firm together with Clint Beecroft, a licensed engineer with EGR & Associates, and Thom Lanfear, former Senior Planner with Lane County and now a private land use consultant, represent Benedick Holdings, LLC and its Members Sharla Whitten and Gene Benedick, in their desire to annex real property into the City of Florence for eventual subdivision and residential development. *See Exhibit "A"* (Proposed Annexation Area and Legal Description ("the Property")). Attached with this letter are the City's general land use application and zoning checklist forms that have been completed for the Property together with an executed owner Authorization. Also enclosed is a check for \$1750 which we understand is the fee for the initial hearing process. Following that is the Petition for Annexation together with draft findings in the form of our Applicant's Statement. At the end of the Petition and findings are all the map exhibits referenced in this letter, the Petition and the draft findings.

Before getting into the details of our Petition for annexation and zone change application, I want to thank City staff and especially Ms. Farley-Campbell and Mr. Miller for their suggestions and guidance in preparation of this request. The other thing I would note in the introduction is that the City has, over the last

decade and longer, considered and approved several annexation requests in the North Florence area, particularly several recent approvals during the last three years. *See Exhibit “B”* (List of North Florence Annexations and Map).

We believe these more recent annexations were substantially influenced by the two earlier annexations that took place in 2007 and in 2008. The 2007 annexation, included the Fawn Ridge Subdivision together with a third property (Ures) and is located on both sides of Rhododendron. The Fawn Ridge annexation was large and included platted subdivisions that had been approved but plan policy required annexation for sewer service. The area annexed is depicted on the annexation map (Property 1, **Exhibit “B”** (List of North Florence annexations and Map)). It is a cherry stem shaped configuration as was the annexation that followed in 2008.

The Driftwood Shores annexation, the following year, also involved a lengthy portion of Rhododendron Drive extending north to and including the Driftwood Shores Properties (“the Driftwood Shores Annexation”). (*See* Property 2, **Exhibit “B”** (List of North Florence annexations and Map)) *See also Exhibit “C”* (Map of Driftwood Shores Annexation). At the time, 2008, it involved another significant extension by the City of sewer service to the northern and northwest edge of Florence’s urban growth boundary.

Both annexations occurred at the same approximate time that the City and County were making planning policy changes that now provide the criteria by which this petition for annexation and concurrent zone change request will be evaluated. One of the primary changes was to make clear two points: (1) Sewer service from the City was required for all future development, and (2) sewer service was only available from the City and then only after annexation to the City was completed.

The City’s approval of these two annexation requests in 2007 and 2008 was significant because it provided City sewer service to the North Florence area. Coupled with the change in policy requiring annexation to the City to obtain sewer service, there followed, after a pause for the Country’s recession, a number of North Florence annexations that were approved beginning with the Jerry’s Place annexation in 2015 (Property 3, **Exhibit “B”** (List of North Florence annexations and Map)) followed by a combination of three separate annexation and zone change requests that were approved simultaneously on February 6, 2017. (Ordinance Nos. 1, 2, 3, and 4, Series 2017). This was followed by several more

annexation approvals in 2018 for nearby properties including one that is planned for a 20 plus lot residential subdivision. *See* Property 9, **Exhibit “B”** (List of North Florence annexations and Map). These sites are identified on a map attached as **Exhibit “B”**, (List of North Florence annexations and Map).

Including the Fawn Ridge and Driftwood Shores annexation, a diverse assortment of properties have been annexed in the North Florence area by the City since 2007. All of the annexed properties have or will be provided sewer service from the City as a direct result of the Fawn Ridge and Driftwood Shores annexation approvals that extended a primary sewer line within the Rhododendron right-of-way to the northern edge of the City’s UGB. As discussed later, the City’s approval of the Driftwood Shores annexation was appealed to LUBA who affirmed in its entirety, the City’s annexation approval.

The Driftwood Shores Annexation approval by the Florence City Council on February 6, 2008 was very important for the City’s future growth, and in particular, that approval was also very important for our clients and their present annexation petition for at least two reasons. First, and as described previously, the City’s approval of both the 2007 and 2008 annexations together allowed the extension of a main line sewer north to Driftwood Shores, thereby making it accessible to the Property from Rhododendron east within the platted right-of-way of Oceana Drive. *See* **Exhibit “A”** (Proposed Annexation Area and Legal Description (“the Property”)). The first IDYLEWOOD plat was recorded in 1981 by the Benedick family and they are now requesting annexation of the final part of their Idylewood property. *See* **Exhibit “A”** (Proposed Annexation Area and Legal Description (“the Property”)) Map.

The second reason why both the Fawn Ridge and Driftwood Shores annexations are particularly important for the present annexation petition is their scope, magnitude and geographical shape which was in the form of a cherry stem. *See* **Exhibit “B”** (List of North Florence annexations and Map). This term describes annexation of a street, i.e. the stem being Rhododendron Drive that then connects to the larger, developable property, i.e. the cherry, which was the Driftwood Shores property in 2008 and is Oceana Drive as it extends to our client’s property for this proposed annexation. The reason for annexing the street is to establish contiguity with the existing municipal boundaries. Since the Fawn Ridge annexation in 2007 and the Driftwood Shores annexation in 2008, many more annexations have been approved in the North Florence UGB and all in some form or another, were annexing to receive City sewer service from the main line in

Rhododendron. See **Exhibit “B”** (List of North Florence annexations and Map).

After the City’s approval of the Driftwood Shores annexation (**Exhibit “C”**) (Driftwood Shores Annexation), that final decision was appealed to the Land Use Board of Appeal (LUBA) by two different petitioners. In its decision, (*Link v City of Florence*, LUBA Nos. 2008-145, 2008-146 and 2008-147, decided 02-13-09), LUBA issued a lengthy opinion that responded to and denied all of the various assignment of errors asserted by the opponents and affirmed the City’s annexation approval. This case serves as strong precedent for how the City can and should address the various State and City criteria that all annexations must satisfy including the present petition.

One of the most important parts of LUBA’s decision was its affirmation of the lengthy extension of the City boundaries within the Rhododendron right-of-way. LUBA found such a cherry-stem extension of the City’s boundaries and services was reasonable given the benefits that occurred for both the City and the North Florence property owners from having municipal sewer service readily available. I urge you to review the decision especially as it analyzes and affirms the City’s findings addressing the 2020 Realization Comprehensive Plan which, with some changes, is still the City’s acknowledged comprehensive plan. The annexations that have been approved since Fawn Ridge and Driftwood Shores have all been found to be consistent with the 2020 Plan.

Please excuse all the paperwork, maps and other documents that comprise our annexation petition and the accompanying zone change application which address much of the same criteria. Annexations are more involved than most land use applications because of the State statutes that are directly applicable. The statutes are primarily directed at providing residents, whether they be “electors” or “owners”, with certain participatory rights in the annexation process. For the present annexation proposal, the statutes are not particularly relevant because there is only one “owner”, that being our client, Benedick Holdings, LLC., and no “electors”.

With State statutes not being a factor for this particular application, the primary focus is on the Florence Realization, 2020 Comprehensive Plan and, in particular, the “Annexation Policies” set forth in Chapter 14, “Urbanization”. Those policies are addressed in more detail in the draft findings that are attached to our annexation petition. Of the seven policies listed, Policy 3 requires the most direct look at the property proposed to be annexed with respect to three

“considerations”:

- “(a) orderly, economic provision of public facilities and services;
- (b) conformance with the acknowledged City of Florence Comprehensive Plan;
- (c) consistency with State Law.”

Based on the Property’s location, the availability of public services and facilities, and particularly sewer service, as well as its designation as suitable for low density residential development, as planned for in the City’s 2020 Plan, we believe this proposal satisfies and is consistent with all of the City’s Annexation Policies.

Moreover, we believe this annexation follows a series of annexations that have occurred in the North Florence area that were a direct result of the annexation of Fawn Ridge in 2007 and Driftwood Shores in 2008 together with the concurrent extension of the City’s main line sewer within the right-of-way for Rhododendron Drive. The present annexation is made possible by the presence of that sewer line and is supported by the recent annexations in the general area. This is what is supposed to occur when there is an acknowledged comprehensive plan that provides the standards for when properties should be annexed and what zoning should be applied.

With that, we are ready and willing to respond to any questions and direction you might offer. We are prepared to adjust to new procedural requirements as will be required by the COVID-19 crisis. Please let us know how to proceed.

Sincerely,



Michael E. Farthing

Enclosures:

- Application Fee check \$1,750.00
- Authorization Form
- City of Florence Type of Request Form

City of Florence Zoning Checklist Form  
Petition for Annexation  
Applicant's Statement in Support of Petition

Exhibits:

- "A" Proposed Annexation Area and Legal Description ("the Property")
- "B" List of North Florence Annexations and Map
- "C" Driftwood Shores Annexation
- "D" Vicinity Map
- "E" Florence Realization 2020 Comprehensive Plan Map
- "F" Zoning Map
- "G" 2017 Aerial Photo
- "H" Estuary & Coastal Shorelands Management Units Map

- c: Benedick Holdings, LLC (via email)
- Clint Beecroft (via email)
- Thom Lanfear (via email)

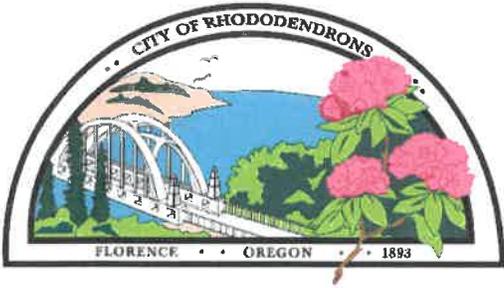
**AUTHORIZATION**

I authorize Michael Farthing, Clint Beecroft and Thom Lanfear to represent Benedick Holdings, LLC and its members with regard to all matters pertaining to a Petition for Annexation and concurrent Zone Change that the aforementioned is concurrently filing with the City of Florence.

BENEDICK HOLDINGS, LLC

Sharla Whitten, Manager

Date



*City of Florence*  
Community Development Department  
250 Highway 101  
Florence, OR 97439  
Phone: (541) 997 - 8237  
Fax: (541) 997 - 4109  
[www.ci.florence.or.us](http://www.ci.florence.or.us)

### Type of Request

#### THIS SECTION FOR OFFICE USE ONLY

Type I    Type II    Type III    Type IV

**Proposal:** Annex a 46 acre parcel and Oceana Drive to the City and concurrently rezone it Low Density Residential/Prime Wildlife (LDR/PW)

### Applicant Information

Name: Michael Farthing, attorney for property owner Phone 1:  (Assistant)

E-mail Address:

Address: \_\_\_\_\_

Signature:

Applicant's Representative (if any): n/a

### Property Owner Information

Name: Benedick Holdings, LLC, an Oregon Limited Liability Company Phone 1:

E-mail Address:  Phone 2: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: Sharia Whitten, Managing Member

Applicant's Representative (if any): \_\_\_\_\_

NOTE: If applicant and property owner are not the same individual, a signed letter of authorization from the property owner which allows the applicant to act as the agent for the property owner must be submitted to the City along with this application. The property owner agrees to allow the Planning Staff and the Planning Commission onto the property. Please inform Planning Staff if prior notification or special arrangements are necessary.

### For Office Use Only:



Approved

Exhibit

**Property Description**

Site Address: none  
General Description: vacant 46+ acre parcel with Coastal Shorelands on eastern portion

Assessor's Map No.: 18 12 - 10 - 40 Tax lot(s): 400 and 401  
Assessor's Map No: 18-12- 10- 34 Tax Lot: 801

Zoning District: Suburban Residential/Urbanizing/Prime Wildlife  
Conditions & land uses within 300 feet of the proposed site that is one-acre or larger and within 100 feet of the site that is less than an acre OR add this information to the off-site conditions map  
(FCC 10-1-1-4-B-3): The western and northern boundaries are developed with single family residential subdivisions. Coastal shorelands are on the eastern and southern borders.

**Project Description**

Square feet of new: n/a Square feet of existing: n/a  
Hours of operation: \_\_\_\_\_ Existing parking spaces: \_\_\_\_\_

Is any project phasing anticipated? (Check One): Yes  No

Timetable of proposed improvements: \_\_\_\_\_

Will there be impacts such as noise, dust, or outdoor storage? Yes  No

If yes, please describe: \_\_\_\_\_

Proposal: (Describe the project in detail, what is being proposed, size, objectives, and what is desired by the project. Attach additional sheets as necessary)

No development is authorized by approval of either the annexation or the change of zone.

**For Office Use Only:**

Date Submitted: 7-30-20 Fee: \$1750  
Received by: gdfc



FOR OFFICE USE ONLY

Received



City of Florence

Community Development Department
250 Highway 101
Florence, OR 97439
Phone: (541) 997 - 8237
Fax: (541) 997 - 4109
www.ci.florence.or.us



Zoning Checklist

Applicant Information

Name: Benedick Holdings, LLC, Sharla Whitten, Manager Phone 1:
Address:
Signature:
Em

Property Owner Information

Name: Same as above Phone 1: Phone 2:
Address: Email Address:
Signature: Date:

NOTE: If applicant and property owner are not the same individual, a signed letter of authorization from the property owner which allows the applicant to act as the agent for the property owner must be submitted to the City along with this application. The property owner agrees to allow the Planning Staff and the Planning Commission onto the property. Please inform Planning Staff if prior notification or special arrangements are necessary.

Property Information

Site Address: None
General Description of Proposal & Existing Conditions: vacant property with some Coastal Shorelands
Assessor's Map No.: 18 -12 -10 -34 Tax lot(s): 801
Assessor's Map No.: 18 -12 -10 -40 /Prime Wildlife Tax lot(s): 400 and 401
Zoning District: Suburban Residential/Urbanizing/ Overlay:
Conditions & land uses within 300 feet of the proposed site that is one-acre or larger and within 100 feet of the site that is less than an acre OR add this information to the off-site conditions map (FCC 10-1-1-4-B-3): The western and northern boundaries are developed with single family residential subdivisions. Coastal shorelands are on the eastern and souther borders.

Checklist

Table with 3 columns: YES, NO, Detail. Rows include items like 'Property is properly zoned for proposal?', 'Are required setbacks/coverage met?', 'Height restrictions/other zoning restrictions met?', etc.

For Office Use Only Type: Approved: Yes / No | By: / Notes:

**PETITION FOR ANNEXATION**

to

***City of Florence, Oregon***

The undersigned hereby petitions for and gives its consent for the area described below to be the sole subject of this petition for annexation to the City of Florence, Oregon. With this signature, I am verifying that I have the authority to consent to annexation as the property owner on behalf of our limited liability company.

The property to be annexed is as follows:

Three parcels consisting of 46.06 acres together with a portion of Oceana Drive and more particularly depicted and described on attached **Exhibit “A”** (Proposed Annexation Area and Legal Description (“the Property”)).

**Assessor’s Map References and Tax Lots:**

Map No. 18-12-10-34 Tax Lot 801, Map No. 18-12-10-40 Tax Lots 400 and 401 (Proposed Annexation Area and Legal Description (“the Property”)).  
See **Exhibit “D”**, (Vicinity Map).

**Property Address :** N/A

**Property Owner/Elector’s Name(s):**

Benedick Holdings, LLC  
Sharla Whitten, Managing Member

Signature:



Sharla Whitten, Managing Member

Date:

7/27/20